REMARKS

Applicants have carefully reviewed the arguments presented in the Office Action and respectfully request reconsideration of the claims in view of the remarks presented below.

In response to the Office Action of February 10, 2003, applicant hereby elects Group II, with traverse. In this regard it is respectfully suggested that the claims of the various Groups are not "independent and distinct" as required by 35 USC 121, but are closely related. In this regard an extract from a speech by the late Judge Giles Rich is attached to this response.

Thus, within the meaning of 35 USC 121, all of the claims relate to wrist supports, and the claims define structures which are closely related. Accordingly the claims are not "independent and distinct" but are closely related and include overlapping subject matter. Accordingly it is respectfully suggested that restriction is improper; and we request that it be withdrawn, and that all of the claims be considered.

Concerning one minor matter, it is noted that the groups of claims omitted any Group VI. In addition, claim 91 was not included in any group. It is considered that claim 91 and the newly added dependent claims should all be included in the elected Group II.

It is further noted that several new dependent claims are presented; and it is respectfully requested that these claims now be considered along with the originally presented claims.

Applicant hereby authorizes the Commissioner to charge any additional fees, which may be required, or credit any overpayment to Deposit Account No. 06-2425. Should such additional fees be associated with an extension of time, Applicant respectfully requests that this paper be considered a petition therefore.

Respectfully submitted,

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Enclosed: Speech by Judge Giles Rich

Alan C. Rose

Transcript of Address

By

GILES S. RICH

On

The Patent Act of 1952

THE NEW YORK PATENT LAW ASSOCIATION

November 6, 1952

Sec. 119

Section 119 is the priority part of 4887 rewritten with a new requirement for a certified copy of the foreign application. It does not apply to patents which issue before the 1st of January. The Official Gazette of August 26, 1952 prints a notice on the practice in this respect. You must file the certified copy before the patent issues, if it issues after January 1st, or you will lose your priority date. (Rules 55, 216 and 224)

Sec. 120

Section 120 gives co-pending applications the benefit of the filing date of a parent case, but only if there is in the later application a specific reference to the earlier one. Some people have questioned whether this would apply to more than one succession, one application in succession to one parent; I think that, on careful reading, you will agree that the number of generations of the lineage is unlimited. (New Rule 78 requires a statement of the serial number and filing date, and also of the relationship between the two applications.)

Sec. 121

Section 121 is a tightening up of the law on division in favor of the patentees. The present statutes do not refer to the subject. Note the conjunctive expression "independent and distinct inventions." Requiring that the inventions be both independent and distinct makes it easier to keep two of them in one case. (New Rule 142.) What is now called a requirement for division will hereafter be a "requirement for restriction."

There is an innovation in Section 121, in that it provides that neither the parent nor the divisional patent, where there is copendency, can be used as a reference against the other application or patent. This is directed at those annoying rejections that one of your own inventions is not patentably distinguishable from another of your inventions.

Compare the Traitel Marble Co. Case, 22 F. 2d 259 (CCA-2), decided by Judge Learned Hand, holding that such patents are not proper references against each other. To take advantage of this section it would be well to let the Patent Office decide on restriction in doubtful cases.